IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

MFA.No. 1083 of 2002(B)

OPMV. 284 & 285/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA
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APPELLANTS/PETITIONERS 1 TO 3 IN OP(MV)285/1999:
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1. **BEEMA W/O. LATE SYED MOHAMMED,**
   KAMBY VALAPPIL, KAKKAZHAM, ALAPPUZHA.

2. **THANSEER MOHAMMED (MINOR),**
   S/O. LATE SYED MOHAMMED, KAMBY VALAPPIL,
   KAKKAZHAM, ALAPPUZHA.

3. **NOORMOHAMMED (MINOR),**
   S/O. LATE SYED MOHAMMED, KAMBY VALAPPIL,
   KAKKAZHAM, ALAPPUZHA.

BY ADV. SRI.S.SHANAVAS KHAN

RESPONDENTS/RESPONDENTS 1 TO 3 IN OP(MV) 285/1999:
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1. **UNNY, S/O. LAKSHMANAN NADAR,**
   KLN COTTAGE, WARD NO.1, KARIMKULAM PANCHAYAT,
   KARIMKULAM VILLAGE, NEYYATTINKARA.

2. **RAJENDRAN S/O. SANKARAN,**
   PULLANNY PUTHEN VEEDU, KEEZHKILLAM DESOM,
   WARD NO.4, CHENKAL PANCHAYAT, CHENKAL PUKUTHY,
   NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT.

3. **THE NEW INDIA ASSURANCE COMPANY LTD.,**
   REPRESENTED BY ITS BRANCH MANAGER, ALAPPUZHA.

BY ADV. SRI.M.JACOB MURICKAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1083 OF 2002 (B)

Dated this the 11th day of September, 2007

J U D G M E N T

KOSHY,J.

A 12 year old boy died in a motor accident while he was travelling with his father in a motor cycle. Mother and two brothers filed this application for compensation. Tribunal awarded only Rs.99,000/- as compensation even though tribunal found that accident occurred due to the negligence of the driver of the vehicle insured by the 3rd respondent Insurance company. It is submitted that even if there is no negligence on the part of the respondents, under Section 163 A, much higher amount ought to be taken. Second Schedule was framed in 1994. Here the accident occurred in 1999. As per the 2nd Schedule, notional income of a non-earning person is Rs.15,000/- (Rs.1,250/- per month). It was contended that deceased was in Saudi Arabia and considering the family status etc. a higher notional income should have been fixed. He was a non-earning person. For the

purpose of calculation of dependency compensation, we take the notional income fixed under the Second Schedule and taking the guideline from the Second schedule, 15 is taken as the multiplier. If that be so, after deducting $^{1}/_{3}^{rd}$, compensation payable will be Rs.1,50,000/-. Tribunal has awarded only Rs.50,000/- as compensation. Thus additional compensation payable is Rs.1,00,000/-. Even though it is contended that compensation granted for love and affection are very meager, we are not enhancing the amount considering the facts and circumstances of the case. The additional compensation of Rs.1,00,000/- should be deposited by the 3rd respondent Insurance company with 7% interest from the date of application till deposit. Appeal is allowed partly.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

prp

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1083 OF 2002 (B)

J U D G M E N T

11th September, 2007